

ASSEMBLY BILL

No. 1687

Introduced by Assembly Member Conway

February 13, 2014

An act to amend Section 4502 of, to amend the heading of Chapter 1 (commencing with Section 4500) of Division 4.5 of, to add the heading of Chapter 1.3 (commencing with Section 4502) to, and to add the heading of Chapter 1.6 (commencing with Section 4507) to, Division 4.5 of, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1687, as introduced, Conway. Persons with Developmental Disabilities Bill of Rights.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. Existing law states the intent of the Legislature that persons with developmental disabilities have certain rights, including a right to prompt medical care and treatment and a right to be free from harm. Existing law requires that a person with developmental disabilities who has been admitted or committed to a state hospital, community care facility, or health facility have specified rights, including the right to have access to individual storage space for private use and a right to see visitors each day. Existing law requires a developmental center to immediately report resident deaths and certain serious injuries, including a sexual assault, to the local law enforcement agency having jurisdiction over the city or county in which the developmental center is located.

This bill would recast those rights as the Persons with Developmental Disabilities Bill of Rights. The bill would include, as a right, the right to a prompt investigation of any alleged abuse against a person with developmental disabilities and the results of the investigation to be made available to the person and his or her family, legal guardian, conservator, or authorized representative in a timely fashion. By creating new duties for local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Chapter 1 (commencing with
2 Section 4500) of Division 4.5 of the Welfare and Institutions Code
3 is amended to read:

4
5 CHAPTER 1. ~~GENERAL PROVISIONS~~ TITLE AND INTENT

6
7 SEC. 2. The heading of Chapter 1.3 (commencing with Section
8 4502) is added to Division 4.5 of the Welfare and Institutions
9 Code, to read:

10
11 CHAPTER 1.3. PERSONS WITH DEVELOPMENTAL DISABILITIES
12 BILL OF RIGHTS

13
14 SEC. 3. Section 4502 of the Welfare and Institutions Code is
15 amended to read:

16 4502. (a) Persons with developmental disabilities have the
17 same legal rights and responsibilities guaranteed all other
18 individuals by the United States Constitution and laws and the
19 Constitution and laws of the State of California. No otherwise
20 qualified person by reason of having a developmental disability

1 shall be excluded from participation in, be denied the benefits of,
2 or be subjected to discrimination under any program or activity,
3 which receives public funds.

4 ~~It~~

5 (b) *It* is the intent of the Legislature that persons with
6 developmental disabilities shall have rights including, but not
7 limited to, the following:

8 ~~(a)~~

9 (1) A right to treatment and habilitation services and supports
10 in the least restrictive environment. Treatment and habilitation
11 services and supports should foster the developmental potential
12 of the person and be directed toward the achievement of the most
13 independent, productive, and normal lives possible. Such services
14 shall protect the personal liberty of the individual and shall be
15 provided with the least restrictive conditions necessary to achieve
16 the purposes of the treatment, services, or supports.

17 ~~(b)~~

18 (2) A right to dignity, privacy, and humane care. To the
19 maximum extent possible, treatment, services, and supports shall
20 be provided in natural community settings.

21 ~~(c)~~

22 (3) A right to participate in an appropriate program of publicly
23 supported education, regardless of degree of disability.

24 ~~(d)~~

25 (4) A right to prompt medical care and treatment.

26 ~~(e)~~

27 (5) A right to religious freedom and practice.

28 ~~(f)~~

29 (6) A right to social interaction and participation in community
30 activities.

31 ~~(g)~~

32 (7) A right to physical exercise and recreational opportunities.

33 ~~(h)~~

34 (8) A right to be free from harm, including unnecessary physical
35 restraint, or isolation, excessive medication, abuse, or neglect.

36 ~~(i)~~

37 (9) A right to be free from hazardous procedures.

38 ~~(j)~~

39 (10) A right to make choices in their own lives, including, but
40 not limited to, where and with whom they live, their relationships

1 with people in their community, the way they spend their time,
2 including education, employment, and leisure, the pursuit of their
3 personal future, and program planning and implementation.

4 *(11) A right to a prompt investigation of any alleged abuse*
5 *against a person with developmental disabilities. The results of*
6 *the investigation shall be made available to the person and his or*
7 *her family, legal guardian, conservator, or authorized*
8 *representative in a timely fashion.*

9 SEC. 4. The heading of Chapter 1.6 (commencing with Section
10 4507) is added to Division 4.5 of the Welfare and Institutions
11 Code, to read:

12
13 CHAPTER 1.6. GENERAL PROVISIONS
14

15 SEC. 5. If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.